

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

GENENTECH, INC.,	)	Case No.: 10-CV-02037-LHK
	)	
Plaintiff,	)	
	)	
v.	)	ORDER REGARDING
	)	ADMINISTRATIVE REQUEST FOR
THE TRUSTEES OF THE UNIVERSITY OF	)	SEALING
PENNSYLVANIA, A PENNSYLVANIA NON-	)	
PROFIT CORPORATION,	)	
	)	
Defendant.	)	

Genentech has submitted a request to seal portions of its Motion to File First Amended Complaint and First Amended Answer, certain exhibits appended to the Motion, and portions of the First Amended Complaint and Answer, on the basis that these materials cite information produced by Defendant (U Penn) and marked Highly Confidential. *See* Dkt. No. 116. U Penn submitted a declaration stating that the documents Genentech seeks to seal were properly designated as Highly Confidential. *See* Dkt. No. 120. Genentech's request is granted as to Exhibits B, C, O and D and as to proposed redactions citing these materials. However, Exhibits K, L and M appear to be letters between third-parties and U Penn providing critiques of manuscripts intended for publication. The Protective Order states that Highly Confidential information is "extremely sensitive 'Confidential Information or Items,' disclosure of which to another Party or Non-Party would create a substantial risk of serious harm that could not be avoided by less

1 restrictive means.” Protective Order at § 2.8. U Penn does not state that there was a confidentiality  
2 agreement or other basis for U Penn to have a reasonable expectation of confidentiality regarding  
3 these communications. Accordingly, the Court requires additional information regarding the basis  
4 for marking these documents Highly Confidential under the Protective Order before the request for  
5 sealing can be granted.

6 U Penn shall submit additional information supporting its designation of these documents  
7 as Highly Confidential, or a declaration stating that this designation has been removed, by Monday,  
8 March 7, 2011.

9 **IT IS SO ORDERED.**

10 Dated: March 2, 2011

11   
12 LUCY H. KOH  
13 United States District Judge  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28